



To: All CDBG & HOME Recipients
From: IHFA Federal & State Programs
Date: July 17, 1998
Re: Bonding Requirements

Notice: FSP-98-11

This notice is being distributed to all grantees to provide clarification on Federal bonding requirements with respect to contracts awarded in conjunction with CDBG or HOME funded construction activities.

In general, any construction or facility improvement contract or subcontract exceeding \$100,000 requires the following:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 % of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 % of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
4. Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

When the procuring entity is a non-profit organization, OMB Circular A-110 allows the Indiana Housing Finance Authority (IHFA) the flexibility to accept the non-profit's bonding policy and requirements (which may differ from the items listed above) when IHFA has made a determination that the Federal Government's interest is adequately protected. Subsequently, unless the non-profit has requested such a determination from IHFA, the non-profit must comply with the bonding requirements as given above.

A grantee, subrecipient, or grant administrator may not avoid the bonding requirements by splitting the construction contract into several smaller contracts with an individual entity. For example, if a HOME award is for the construction of 10 single-family homes at \$70,000 per home, and the grantee awards 10 separate contracts to an individual contractor, the bonding requirements still apply to these contracts. Alternatively, the bonding requirements do not apply in the case of an owner-occupied rehabilitation program where several different homeowners enter into rehabilitation contracts with the same contractor.

If you have any questions regarding this correspondence, please contact your Compliance Specialist.

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